

AUG 25 2006

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE IGNACIA HEREDIA-VALDEZ,
aka Jose Valdes Heridia, Jose Heredia-
Valdez,

Defendant - Appellant.

No. 05-10374

D.C. No. CR-04-00289-JMR

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
John M. Roll, District Judge, Presiding

Submitted August 21, 2006^{**}

Before: GOODWIN, REINHARDT, and BEA, Circuit Judges.

Jose Ignacia Heredia-Valdez appeals from the 48-month sentence imposed following his guilty-plea conviction for illegal reentry after deportation in

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). The request for oral argument is denied.

violation of 8 U.S.C. § 1326(a).

Heredia-Valdez contends that the appeal waiver should not be enforced because the district court abrogated the terms of the plea agreement. We conclude the district court properly calculated the offense level and criminal history based upon Heredia-Valdez's prior convictions, and imposed a sentence within the corresponding range provided in the plea agreement. Absent any violation of the plea agreement, Heredia-Valdez's appeal waiver must be enforced and we dismiss the appeal. *See United States v. Schuman*, 127 F.3d 815, 818 (9th Cir. 1997) (per curiam).

DISMISSED.